

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE**  
**PERSONNEL MANAGEMENT MANUAL**  
General Information Bulletin #25-01

**TO:** Department and Agency Directors of Human Resources, Personnel and Affirmative Action Officers, Equal Opportunity Specialists, Diversity and Inclusion Specialists

**FROM:** Ben Gifford, Director of Staffing Services

**SUBJECT:** Provisional Service Counting Towards Time-in-Title Requirements for Promotion Once Permanently Appointed

**DATE:** March 21, 2025

On September 5, 2024, Governor Kathy Hochul signed Chapter 307 of the laws of 2024. This Chapter amends subdivision (10) of Civil Service Law (CSL) section 52, entitled "Promotion examinations" to include the following language:

*"A person appointed provisionally in accordance with section sixty-five of this article who receives a permanent appointment to the same title immediately following the provisional appointment shall have all time spent as a provisional appointee in such title credited towards the qualifications required to take a promotional examination as well as eligibility for appointment from the resulting eligible list. Such time credited pursuant to this subdivision shall be used only for the purposes of any term that is required for a promotional examination and eligibility for appointment from the resulting eligible list and shall not be used for any other purpose."*

**Overview:**

This statute requires that any employee serving provisionally in a title who receives a permanent appointment to the same title immediately following the provisional service shall have all actual service time in provisional status counted towards time-in-title qualifications required for promotion.

All provisional service that meets such criteria shall be credited regardless of when the qualifying provisional service first began.

This statute applies only to provisional employees appointed in accordance with section 65 of the CSL and does not apply to employees appointed in temporary status in accordance with section 64 of CSL.

However, provisional employees who administratively have their status changed to "temp list revoke" upon eligible list establishment shall have such service considered as provisional service for the purposes of meeting the requirements of CSL section 52.

**Application:**

**Qualifying Provisional Service**

For provisional service to count towards promotion minimum qualification requirements, the employee must first be permanently appointed to the title. Employees in provisional status are not qualified for promotion while serving provisionally.

Additionally, for the provisional service to count towards time-in-title eligibility for promotion, the permanent appointment must immediately follow the period of provisional service. Provisional employees who administratively have their status changed to "temporary list revoke" upon the establishment of an appropriate eligible list shall have such service considered as provisional service for purposes of meeting the requirements of this statute.

As [per GIB 23-04](#) regarding provisional service counting towards completing probation once permanently appointed, employees who vacate provisional positions and are later permanently

appointed to the same title are not eligible to have the prior provisional service counted toward the completion of probation.

Likewise, for provisional service to count towards promotion eligibility, such provisional service must immediately precede a permanent appointment to the same title, without the employee vacating the position/title. Therefore, if an employee vacates a position/title in which they are serving provisionally, such provisional service will not count towards promotion eligibility if the employee is later permanently appointed to the same title.

Similarly, an employee whose provisional appointment is revoked due to the establishment of an eligible list and who doesn't receive a permanent appointment (i.e. is not reachable and returns to a hold or separates) but who is later appointed permanently to the same title shall not have the prior provisional service count towards promotion eligibility, as there is a break between the provisional service and the permanent appointment.

However, if a provisional employee is permanently appointed to the title immediately following their provisional service as per the requirements of the legislation, and subsequently separates from their permanent appointment (i.e. resigns or is terminated on probation) their provisional and permanent service will still count toward requirements for promotion if later permanently re-appointed to the same title. Please note, leave as required by the Attendance Rules (i.e., Paid Family Leave, Paid Parental leave, etc.) does not constitute a break in provisional service, or an employee vacating a position.

**NY HELPS**

Provisional employees who received a permanent non-competitive appointment via NY HELPS to the title will have their provisional service time count toward promotion time-in-title requirements. However, there are some important differences for provisional employees made permanent via NY HELPS as opposed to those made permanent by a competitive class appointment or permanent non-competitive via 55-b/c, as NY HELPS appointees must attain competitive status to be qualified for promotion. The chart below details these differences.

<b>Scenario</b>	<b>Provisional employees made permanent via competitive class appointment or non-competitive 55-b/c appointment immediately following provisional service</b>	<b>Provisional employees made permanent via NY HELPS non-competitive appointment immediately following provisional service</b>
<b>Applying for a promotion examination.</b>	The period of provisional and permanent competitive service or permanent 55-b/c service will count toward the minimum qualifications to take a promotion examination.	The period of provisional and permanent non-competitive NY HELPS service will count toward the minimum qualifications to take a promotion examination.
<b>Being appointed from a promotion examination eligible list.</b>	The period of actual service (both provisional and permanent competitive or permanent 55-b/c service) will count toward the requirements for appointment from a promotion eligible list. Upon meeting the time-in-title service requirements, competitive or 55-b/c employees are eligible for appointment from a promotion eligible list.	The period of actual service (both provisional and permanent non-competitive NY HELPS) will count toward the requirements for appointment from a promotion eligible list. <b><u>However, for NY HELPS appointees, competitive status is needed for promotion. Eligibility for appointment from the promotion list is gained upon cover-in or otherwise gaining permanent competitive or 55-b/c status in a qualifying position and</u></b>

		<b><u>having the time-in-title service requirements.</u></b>
<b>Applying for a transition examination or being appointed from a transition list.</b>	This legislation <u>does not</u> allow for provisional service to be credited toward the requirements to participate in a transition examination or be appointed from a transition eligible list. The employee must meet the minimum and appointment qualifications as stated on the examination announcement.	This legislation <u>does not</u> allow for provisional service to be credited toward the requirements to participate in a transition examination or be appointed from a transition eligible list. The employee must meet the minimum and appointment qualifications as stated on the examination announcement.
<b>Being nominated for a CSL 52.7 non-competitive promotion examination.</b>	The period of actual service (both provisional and permanent competitive or permanent 55-b/c service) will count toward time-in-title minimum qualification requirements for CSL section 52.7 NCP.	The period of actual service (both provisional and NY HELPS permanent non-competitive) will count toward time-in-title minimum qualification requirements for CSL section 52.7 NCP. <b><u>However, for NY HELPS appointees, competitive status is needed for an NCP promotion. Eligibility for NCP is gained upon cover-in or otherwise gaining permanent competitive or 55-b/c status in a qualifying position and having the time-in-title service requirements.</u></b>
<b>Being appointed on a provisional basis to a promotion only title.</b>	The period of actual service (both provisional and permanent competitive, or permanent 55-b/c service) in a qualifying title will count toward the requirements to be appointed provisionally based upon promotion qualifications.	The period of actual service (both provisional and NY HELPS permanent non-competitive) will count toward the time-in-title minimum qualification requirements for provisional appointment. <b><u>However, for NY HELPS appointees, competitive status is needed for a provisional appointment to a promotion only title. Eligibility for a provisional appointment to a promotion only title is gained upon cover-in or otherwise gaining permanent competitive or 55-b/c status in a qualifying position and having the time-in-title service requirements.</u></b>

## **Other Impacts:**

### **Impact on Time in Title for Transfer or Reinstatement**

This change to the statute does not affect the amount of permanent service required to transfer under section 52.6, section 70.1 or section 70.4 of the CSL or for reinstatement to a title one could transfer into pursuant to CSR 5.4 (NYCRR).

### **Impact on Seniority Date**

For purposes of layoff, generally seniority is defined as the date of original permanent in the classified service. This change to the statute does not affect how an employee's seniority date is determined.

### **Eligible List Status**

For any exam held after 9/4/24 and for which the individual meets the requirements detailed above, provisional time will be credited for purposes of applying for a promotion examination. Also, all individuals who are on an active eligible list as of the date of the legislation (and meet all requirements as detailed above) will have their provisional service time credited toward qualifications for appointment. As noted above, individuals serving on a permanent non-competitive basis under NY HELPS must still be covered-in or otherwise be made permanent competitive or 55-b/c in their position to be appointed from a promotion eligible list.

Employees who are separated from their former agency and have not yet met the requirements for placement on their current agency's Department portion of the eligible list will remain active on the Inter-departmental portion of the eligible list. They may be added to their new agency's Department portion once the requirements for doing so are met. (See [SPMM PB 89-02](#))